Detention of offenders attending Court.

351. (*1*) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inqury into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(*2*) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in presence of accused.

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Manner of recording evidence outside presidency towns.

354. In inquiries and trials, (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Manner of recording evidence.[1] * *

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

355. (*1*) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (*1*) of section 260, clauses (*b*) to (*m*), both inclusive, when tried by a Magistrate of the first or second class and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(*2*) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(*3*) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

[1] The words "outside presidency towns" were deleted by Bom. 32 of 1948, s. 19.

Record in other cases outside presidency towns.

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing [in the language of the Court either by the Magistrate or Sessions Judge with his own hand or from his dictation in open Court] or in his presence and hearing and under his personal direction and superintendence and [the evidence so taken down shall be signed by the Magistrate or Sessions Judge and shall form part of the record].

Record in other cases.

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing [2][in the language of the Court either by the Magistrate or Sessions Judge with his own hand or from his dictation in open Court] or in his presence and hearing and under his personal direction and superintendence and [3][the evidence so taken down shall be signed by the Magistrate or Sessions Judge and shall form part of the record].

Evidence given in English.

(*2*) When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand [4][or cause it to be taken down in writing in that language from his dictation in open Court] and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

[5](*2A*) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.]

Memorandum when evidence not taken down by the Magistrate or Judge himself.

(*3*) [6][In cases in which the Magistrate or Sessions Judge does not either take down the evidence with his own hand or cause it to be taken down in writing from his dictation in open Court], he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

(*4*) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

Language of record of evidence.

357. (*1*) The [7][8][State] Government] may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court.

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[1] The words "outside presidency towns" were deleted by Bom. 32 of 1948, s. 19.

[2] Substituted by Act 26 of 1955, s. 65 (*a*) (*i*), for "in the language of the Court by the Magistrate or Sessions Judge".

[3] Substituted, *ibid*, s. 65 (*a*) (*ii*), for "shall be signed by the Magistrate or Sessions Judge".

[4] Inserted, *ibid*, s. 65 (*b*).

[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 96.

[6] Substituted by Act 26 of 1955, s. 65 (*c*), for the original portion.

[7] Substituted by the A. O. 1937 for "L. C.".

[8] Substituted by the A. O. 1950 for "Provincial".